REMARKS

The present paper is submitted in response to an office action dated August 15, 2006 that set forth a restriction requirement. In that office action the office alleged that the claims of the above-referenced application can be divided into three separate Groups for the purposes of 35 U.S.C. 121 as follows:

Group I: claims 1-12 drawn to methods of monitoring gastric emptying, diagnosing a gastric emptying disorder and diagnosing gastroparesis in an animal;

Group II: claims 13-17 drawn to a method of screening a compound that modulates gastric motility in a mammal;

Group III: claims 18-40 drawn to formulations comprising D-xylose and a kit comprising a marker agent.

Applicants elect ***with traverse*** the claims of Group I (i.e., claims 1-12). The present invention stems from the discovery that use of "commercially available, nonradiographic substances" (see specification page 9 lines 14-25) that are amenable to being detected using a simple blood test (may be referred to as the detection agent). In preferred aspects the invention is demonstrated using D-xylose or other substances that are taken up into the blood stream upon release in the intestine. Measurements of serum levels of these agents are them used to estimate gastric emptying and to diagnose delayed gastric emptying. While the claims of Group I are directed to these methods, it is submitted that the claims of Group II which are drawing to screening of compounds that modulate motility in a mammal will also essentially employ similar steps in that the effects of the compound being screened will involve determining the rate at which the detection agent substances appear in the blood stream. Thus, both the claims of Group I and the claims of Group II involve the step of determining the amount of time taken for an elevated concentration of the detection agent to be found in the blood stream. Applicants believe that a search designed to identify art relevant to the claims of Group I will likely be substantially co-extensive with the search designed to identify art relevant to the claims of Group II. As such, at least the claims of Group I and Group II should be examined together.

Moreover, the claims of Group III are merely directed to exemplary kits for use in performing the methods of Groups I and II. As such, the claims of Group III also should be examined together with the claims of Groups I and II.

In view of the above comments, applicants submit that it would not be unduly burdensome to examine the claims of all three groups in one application and applicants therefore request reconsideration of the restriction requirement either in part (i.e., especially with respect of Groups I and II) or in whole.

Should the Examiner have any questions relating to this submission, the Examiner is invited to contact the undersigned representative.

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Respectfully submitted,

By 

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